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5 UNITED STATES DISTRICT COURT  
6 WESTERN DISTRICT OF WASHINGTON  
7 AT TACOMA

8 CLINTON HECK,

9 Plaintiff,

10 v.

11 BRUCE GAGE, et al.,

12 Defendants.

Case No. C11-5539BHS

ORDER DENYING MOTION FOR  
RECONSIDERATION

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14 This matter comes before the Court on the Plaintiff Clinton Heck's ("Heck") motion  
15 for reconsideration or to amend judgment (Dkt. 57). The Court has reviewed the briefs filed  
16 in support of and in opposition to the motion and the remainder of the file and hereby denies  
17 the motion for the reasons stated herein.

18 On March 6, 2012, Judge Creatura issued a Report and Recommendation ("R&R")  
19 recommending that the Court grant Defendants' motion to dismiss because (1) Heck's  
20 claims were unexhausted and (2) Defendants are entitled to qualified immunity. Dkt. 53.  
21 On March 13, 2012, Heck filed objections arguing that his claims were exhausted through  
22 the prison grievance system and that the defense of qualified immunity is not applicable to  
23 his claim for declaratory and injunctive relief. Dkt. 54.

24 On April 5, 2012, the Court adopted the R&R and dismissed Heck's complaint  
25 without prejudice for failure to exhaust. Dkt. 55. On April 13, 2012, Heck filed the instant  
26 motion arguing that the Court erred as a matter of law. Dkt. 57. On April 18, 2012,  
27 Defendants responded. Dkt. 58.


1 The Court considers Heck's motion as only a motion for reconsideration because he  
2 argues that the Court erred as a matter of law, and altering or amending the judgment under  
3 Fed. R. Civ. P. 59(e) will not provide Heck his requested relief of vacating the Court's  
4 previous order. Motions for reconsideration are governed by Local Rule CR 7(h), which  
5 provides as follows:

6 Motions for reconsideration are disfavored. The court will ordinarily  
7 deny such motions in the absence of a showing of manifest error in the  
8 prior ruling or a showing of new facts or legal authority which could not  
9 have been brought to its attention earlier with reasonable diligence.

10 Local Rule CR 7(h)(1).

11 In this case, Heck argues that the Court erred as a matter of law in dismissing his  
12 complaint without prejudice and requiring him to exhaust his claims through the prison  
13 grievance procedure. Dkt. 57 at 2. Heck cites three Supreme Court decisions in support of  
14 his argument. *Id.* The Court has reviewed these cases and none are applicable to Heck's  
15 grievance. Heck's argument is without merit. Therefore, the Court **DENIES** his motion for  
16 reconsideration.

17 DATED this 19th day of April, 2012.

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19 BENJAMIN H. SETTLE  
20 United States District Judge  
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